3 December 1999

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Preparatory Commission for the International Criminal Court

Working Group on Rules of Procedure and Evidence related to Part 4 of the Statute

New York
16-26 February 1999
26 July-13 August 1999
29 November-17 December 1999

Coordinator's discussion paper

Part 4. Organization and composition of the Court

Rules relating to the organization of the Court

B1. Plenary sessions

Plenary sessions of the Court

1. The judges shall meet in plenary session not later than two months after their election. At that first session, after having made their solemn undertaking, in conformity with rule X, the judges shall:[1]

- Elect the President and Vice-Presidents;
- Elect the Registrar;
- Adopt the Regulations;
- Assign judges to divisions.

2. The judges shall meet subsequently in plenary session at least once a year to exercise their functions under the Statute, these Rules and the Regulations of the Court and, if necessary, in special plenary sessions convened by the President on his or her own motion or at the request of one half of the judges.

[1] If the Rules provide for a disciplinary chamber, the following language would be added: "- Assign judges to the disciplinary chamber."

99-37170 (E)

3. The quorum for each plenary session of the Court shall be two thirds of the judges of the Court.

4. Except where another requirement is specified in the Statute or these Rules, the decisions of the plenary sessions of the Court shall be taken by the majority of the judges present. In the event of an equality of votes, the President or the judge acting in the place of the President shall have a casting vote.

B2. Election and qualifications

1. Prosecutor

Delegation of the Prosecutor's functions

Except for the inherent powers of the Prosecutor set forth in the Statute, *inter alia*, those described in articles 15 and 53, the Prosecutor or a Deputy Prosecutor may authorize staff members of the Office of the Prosecutor, other than those referred to in article 44 (4), to represent him or her in the exercise of his or her functions.

2. Registrar

Qualification and election of the Registrar and the Deputy Registrar

1. As soon as it is elected, the Presidency shall establish a list of candidates who satisfy the criteria laid down in article 43 (3) and shall transmit such a list to the Assembly of States Parties with a request for any recommendations.

2. Upon receipt of any recommendations from the Assembly of States Parties, the President shall transmit the list together with the recommendations to the plenary session of the Court.

3. As provided for in article 43 (4), the Court meeting in plenary session shall elect the Registrar by an absolute majority, taking into account any recommendations by the Assembly of States Parties. In the event that no candidate obtains an absolute majority on the first ballot, successive ballots shall be held until one candidate obtains an absolute majority.

4. If the need for a Deputy Registrar arises, the Registrar may make a recommendation to the President of the Court to that effect. The President shall convene a plenary session of the Court to decide on the matter. If the Court meeting in the plenary session decides by an absolute majority that a Deputy Registrar is to be elected, the Registrar shall submit a list of candidates to the Court.

5. The Deputy Registrar shall be elected by the Court meeting in plenary session in the same manner as the Registrar.

B6. Organization of the Office of the Prosecutor

Operation of the Office of the Prosecutor

1. In discharging his or her responsibility for the management and administration of the Office of the Prosecutor, the Prosecutor shall put in place regulations to govern the operation of the Office.

2. In preparing or amending these regulations, the Prosecutor shall consult with the Registrar on any matters which may affect the operation of the Registry.

Retention of information and evidence

The Prosecutor shall be responsible for the retention, storage and security of information and physical evidence obtained in the course of the investigations by his or her Office.

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Rules relating to texts, amendments and solemn undertaking. Rules relating to the organization of the Court (replacements and alternate judge).

Authentic texts[1]

The Rules have been adopted in the official languages of the Court established by article 50, paragraph 1. All texts are equally authentic.

Amendments[2]

1. Amendments to the Rules which are proposed in accordance with article 51, paragraph 2, shall be forwarded to the President of the Bureau of the Assembly of States Parties.

2. The President of the Bureau of the Assembly of States Parties shall ensure that all proposed amendments are translated into the official languages of the Court and are transmitted to the States Parties.

[1] Further consideration shall be given to the placement of this rule. It may not entirely pertain to Part 4 of the Statute.

[2] Further consideration shall be given to the placement of this rule. It may not entirely pertain to Part 4 of the Statute.

99-37188 (E)

3. The procedure described in paragraph 1 and 2 of the present rule shall also apply to the provisional rules referred to in article 51, paragraph 3.

Solemn undertaking

1. As provided in article 45, before exercising their functions under the Statute, the following solemn undertakings shall be made:

(a) In the case of a judge:

"I solemnly undertake that I will perform my duties and exercise my powers as judge of the International Criminal Court honourably, faithfully, impartially and conscientiously, and that I will respect the confidentiality of investigations and prosecutions and the secrecy of deliberations."

(b) In the case of the Prosecutor, a Deputy Prosecutor, the Registrar and the Deputy Registrar of the Court:

"I solemnly undertake that I will perform my duties and exercise my powers as (title) of the International Criminal Court honourably, faithfully, impartially and conscientiously, and that I will respect the confidentiality of investigations and prosecutions."

2. The undertaking, signed by the person making it and witnessed by the President or a Vice-President of the Bureau of the Assembly of States Parties, shall be filed with the Registry and kept in the records of the Court.

Solemn undertaking by the staff of the Office of the Prosecutor, the office of the Registry, interpreters or translators

1. (a) Upon commencing employment, every staff member of the Office of the Prosecutor or of the registry shall make the following undertaking:

"I solemnly undertake that I will perform my duties and exercise my powers as (title) of the International Criminal Court honourably, faithfully, impartially and conscientiously, and that I will respect the confidentiality of investigations and prosecutions."

(b) The undertaking signed by the person making it and witnessed, as appropriate, by the Prosecutor, the Deputy Prosecutor, the Registrar or the Deputy Registrar shall be filed with the Registry and kept in the records of the Court.

2. (a) Before performing any duties, an interpreter or a translator shall make the following undertaking:

"I solemnly declare that I will perform my duties faithfully, impartially and with full respect for the duty of confidentiality."

(b) The undertaking, signed by the person making it and witnessed by the President of the Court or his or her representative, shall be filed with the Registry and kept in the records of the Court.

Replacements

1. A judge may be replaced for objective and justified reasons, *inter alia*:

(a) Resignation;

(b) Accepted excuse;

(c) Disqualification;

(d) Removal from office;

(e) Death.

2. Replacement shall take place in accordance with the pre-established procedure provided in the Statute, these Rules and the Regulations of the Court.

Alternate judge[3]

Where an alternate judge has been assigned by the Presidency to a Trial Chamber pursuant to article 74.1 of the Statute, he or she shall sit through all proceedings and deliberations of the case, but may not take any part therein and shall not exercise any of the functions of the members of the Trial Chamber hearing the case, unless and until he or she is required to replace a member of the Trail Chamber if that member is unable to continue attending.

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[3] A procedure for the designation of an alternate judge should be considered in the framework of Part 6 of the Statute.